

Remarks

Further and favorable reconsideration is respectfully requested in view of the foregoing amendments and following remarks.

Initially, with regard to the objection to the disclosure as set forth on page 2 of the Office Action, Applicants note that a cross-reference to the PCT application on which the present U.S. application is based, is no longer required (MPEP 1893.03(c), section III).

Each of claims 1 and 9, which are the only independent claims in the application, has been amended to delete hydrogen from the definition for R_3 , and also to limit n to an integer from 2 to 4, thus deleting the possibility for n to be 1.

In addition, both occurrences of “and” in lines 1-2 of claim 1 have been changed to --or-- (consistent with the dependent claims) to avoid interpreting claim 1 as being directed to a mixture of the amino alcohol derivative, isomer, salt and hydrate; the brackets in the claims, generally considered inappropriate according to U.S. practice, have been deleted; and “as described above” in some of the dependent claims has been changed to --as described in claim 1 (or claim 9)--. In addition, in order to distinguish claim 9 from claim 1, claim 9 has been amended to add a requirement for an inactive ingredient. The reference to “active ingredient” in claim 9 clearly implies that the agent also contains an inactive ingredient.

Furthermore, claims 12-17 have been amended to delete “prophylactic”, “preventing” and “prevention”. In view of these amendments, Applicants respectfully submit that the rejection of these claims under the first paragraph of 35 U.S.C. §112 has been rendered moot.

The patentability of the presently claimed invention over the disclosure of the reference relied upon by the Examiner in rejecting the claims will be apparent upon consideration of the following remarks.

Thus, the rejection of claims 1-17 under 35 U.S.C. §102(b) as being anticipated by WO 2000001388 (WO ‘388) is respectfully traversed. Applicants note that the Examiner indicates that WO ‘388 is equivalent to the EP ‘435 reference cited in Applicants’ IDS.

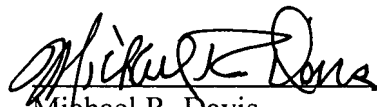
Applicants take the position that this rejection has been overcome by the amendments to claims 1 and 9, deleting hydrogen from the definition for R₃, and limiting n to an integer from 2 to 4. The reference compound referred to by the Examiner, i.e. the last compound on page 52 of the WO '388 abstract, does not have any substituent on the left side phenyl ring other than the amino alcohol moiety (whereas the corresponding phenyl ring in the presently claimed compounds is further substituted by R₃); and furthermore, the reference compound has a methylene group between the left side phenyl ring and the carbon atom to which the amino group is attached (whereas the corresponding alkylene group in the presently claimed compounds has 2-4 carbon atoms). There is no suggestion in the reference which would lead one of ordinary skill in the art to make these structural modifications in order to arrive at the presently claimed compounds.

For these reasons, Applicants take the position that the presently claimed invention is patentable over the WO '388 reference.

Therefore, in view of the foregoing amendments and remarks, it is submitted that each of the grounds of objection and rejection set forth by the Examiner has been overcome, and that the application is in condition for allowance. Such allowance is solicited.

Respectfully submitted,

Yasushi KOHNO et al.

By: 
Michael R. Davis
Registration No. 25,134
Attorney for Applicants

MRD/pth
Washington, D.C. 20006-1021
Telephone (202) 721-8200
Facsimile (202) 721-8250
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